

BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF WASHINGTON

In the Matter of Premiera Blue Cross Conversion	)	
and Acquisition of Affiliates	)	
	)	Docket No. G02-45
Consortium of Northwest Law Schools	)	
	)	MOTION FOR LEAVE
Applicants for Intervention	)	TO INTERVENE

PURSUANT TO RCW 48.31C030(4), RCW 48.04.010, RCW CHAPT. 34.05 AND WAC 284-02-070, the Consortium of Northwest Law Schools moves for leave to intervene in the above-captioned proceeding. The member Law Schools, their students, staff and faculty, have, as required by RCW 48.31C.030(4) significant interests that will be affected by the Insurance Commissioner's decision in this matter. Moreover, their interests are distinct from those of other interveners and they will bring valuable perspectives and resources in aid of this proceeding.

Based on Applicant/Intervener's review of the documents and postings at the Commissioner's website, there appears insufficient basis to conclude the proposed conversion serves the public interest, is consistent with Premera's public purposes, or will advance healthcare finance, insurance or delivery throughout the Northwest. Moreover, there is legitimate basis for concern that Premera's assets, after conversion to a for-profit basis, will be lost to the public and its healthcare in the

1 Northwest. These concerns are confirmed by actions elsewhere, most recently by the Maryland  
2 Commissioner of Insurance's denial of a similar application in that State.

#### 4 I. IDENTITY OF INTERVENER CONSORTIUM LAW SCHOOLS

5 The Consortium of Northwest Law Schools is an association of three law schools, Lewis &  
6 Clark Law School of Portland, Oregon, the School of Law of Seattle University, and the School of  
7 law of the University of Washington, both of Seattle, Washington. Each is a provider and purchaser  
8 of health insurance and healthcare services for its students, staff and faculty. Between them, the  
9 three schools have over 1500 students, 300 staff and 125 faculty. Assuring affordable health  
10 insurance to these constituencies is an essential responsibility of the Consortium members, as a  
11 means of assuring effective healthcare, at affordable levels, to the students and employees  
12 dependent upon the Consortium Law Schools. Moreover, such assurances are necessary for the  
13 Consortium Law Schools to compete nationally for students, staff and faculty.

16 The total expenditure of the member Law Schools on health insurance is in excess of  
17 \$2,000,000. Expenditures have increased dramatically each year for the past eight years.

18 Until recently, each School has included Blue Cross/Blue Shield offerings in its array of  
19 benefits to students, staff and faculty. Each School has increasingly found competition diminishing,  
20 costs escalating, and covered services contracting. Bidders for the Schools' business have  
21 diminished in number and pricing, leaving only a few carriers, including Providence Health  
22 Systems, the Kaiser Health Plan, Premiera and Regence Blue Cross/Blue Shield. As a consequence,  
23 and as evidence of this, Lewis & Clark has recently joined five other private schools in the  
24 Northwest to undertake self-funded insurance provision, forced to such steps by the contracting  
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1 competition, escalating costs, and the emergence of chronic delivery problems of a regional  
2 nature.

3 As with the other Interveners, health insurance and healthcare costs are a major part of the  
4 Coalition members' operating costs. Unlike the Medical school and the Health Centers, the  
5 Consortium Law Schools are not direct providers of healthcare services. However, as with the  
6 Medical School and the University of Alaska, the Consortium Law Schools are directly involved in  
7 education concerning healthcare delivery, finance and policy. In addition, clinics at all three Law  
8 Schools represent indigents, for whom Medicaid and Medicare coverage, and the healths services  
9 thereby funded, are critically important. Private insurance, such as that provided by Premera, is  
10 essential to the managed care components of Medicare and Medicaid.

12 The healthcare teaching and advocacy resources of the Consortium members are substantial,  
13 and important regionally. Presently, Lewis & Clark law School employs professor and former dean,  
14 Arthur B. LaFrance, teaching two healthcare courses; the University of Seattle employs two faculty  
15 members, Kenneth Wing and Annette Clark (former associate dean and both a juris and a medical  
16 doctor), each teaching healthcare courses; the University of Washington Law School employs two  
17 faculty members, Anna Mastroianni and Associate Dean Patricia Kuszler (also a juris and medical  
18 doctor), each teaching healthcare courses. Each has published in the field of healthcare delivery and  
19 finance, as well as bioethics. In addition, each School has extensive clinics, with faculty/staff  
20 attorneys serving indigents, many of whom qualify for Medicaid and Medicare. The libraries of each  
21 are major resources for the development of research and policy in the healthcare field.

24 Beyond direct costs, and in addition to educational services, the Consortium member Law  
25 Schools have an institutional responsibility for the policy and ethics of healthcare delivery and  
26 finance throughout the Northwest. Increasingly, problems, strategies and solutions are regional, if  
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1 not national. And inescapably, they require the resources of healthlaw policy, research and  
2 advocacy centers, such as the Consortium members.

## 3 II. CONSORTIUM CONCERNS

4 The Consortium of Law Schools has already indicated its interests in the preceding portion  
5 of this Motion. As a purchaser and provider of healthcare insurance and services, the member Law  
6 Schools are concerned about the impact of Premera's proposed conversion on the Consortium's  
7 ability to continue its responsibilities to its constituencies. As educational research, advocacy and  
8 policy institutions, the member Law Schools are concerned that their regional responsibilities  
9 require participating in any proceeding which poses a significant risk to the adequacy of regional  
10 healthcare resources. The Consortium is also concerned that, in a proceeding such as this, intervener  
11 resources may not be adequate to the task of reviewing and analyzing complex transactions of the  
12 nature proposed by Premera, with its extensive institutional, financial and legal resources.  
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15 Thus, the Consortium has a broader and different role from that of other interveners. It does,  
16 however, share many of their concerns. More particularly, the Consortium shares many of the  
17 concerns identified in the Motion to Intervene (p4) of the Washington Association of Community  
18 and Migrant Centers, including:

- 19 1. Impact on enrollees and subscribers of Premera;
- 20 2. Impact on the general insurance-buying public;
- 21 3. Impact on state and federal programs and provision of Medicaid and Medicare;
- 22 5. Fair market evaluation of Premera's assets and loss by transferring stock, not assets,  
23 subject to limitations on management proposed by Premera;
- 24 7. The structure and independence of the new Foundation(s).

1 The Consortium also shares the concerns of the University of Alaska (Motion for Leave To  
2 Intervene, p 3), as to

- 3 1. The effects of a conversion on its covered employees and the insurance market;
- 4 2. The impact on the region's personal and public health system;
- 5 3. An equitable allocation of proceeds if the conversion is approved;
- 6 4. The structure of the new foundations and their purposes;
- 7 5. Any conditions to assure full value of the assets is transferred to foundations.

8 The Consortium shares with the Medical School (Petition for Leave To Intervene, p. 8), the  
9 concern that

10 “maximizing profit for shareholders not come at the expense of medical  
11 education and care for the medically indigent. If a profit motive is added to  
12 Premera's corporate philosophy, how will Premera's practice and commitment to  
13 participation in funding medical teaching and research be affected?”

14 Not only as to Washington and Alaska, but throughout the Region.

15 And, as to the Motion To Intervene (p. 4-6) of United Way of Alaska, the Consortium  
16 member Schools share the concern that evidence be required as to

17 III.2.A The fair market value of Premera's assets, including subscriber lists;

18 B. Any proposed private inurement by the corporate officers;

19 C. Any conditions to ensure the full value of Premera's assets is transferred;

20 D. Structure and independence of new organizations “to prevent undue restrictions or  
21 interference in their activities by Premera”;

22 E. A fair and equitable allocation of assets;

23 F-H. The impact on enrollees, the insurance-buying public, on a safety net, and

1 I. The impact of a future sale of the new Premera.

2 Finally, the Consortium members share the region-wide concerns of intervener Leann Hall  
3 (Declaration, p. 2-4), as Executive Director of the Northwest Federation of Community  
4 Organizations. A regional approach, as her Declaration evidences, is necessary to addressing  
5 problems, impacts, solutions and resources in healthcare finance, insurance and delivery. The value  
6 of the Coalition's regional approach is well illustrated by Ms. Hall's prior participation in Oregon  
7 proceedings involving PACC and Regence Blue Cross and Blue Shield.  
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10 III. ALLOWING INTERVENTION BY THE NORTHWEST CONSORTIUM OF LAW  
11 SCHOOLS WOULD BENEFIT THE COMMISSION AND THE PUBLIC INTEREST

12 The member Law Schools are aware that they are filing late to intervene in this conversion  
13 proceeding. Intervention closed a number of weeks ago, four Commission Orders are in place, lead  
14 counsel have been designated, and there has been at least one meeting within the past week.  
15 However, no public hearings or evidentiary proceedings have begun, nor have there been rulings,  
16 preliminary or otherwise, on the merits. Nothing has happened that the Consortium would seek to  
17 undo or could not accept.  
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19 The Consortium members have fully informed themselves through the Commission  
20 website and other document review as to the status of the proceeding. At the same time, the  
21 Consortium members have reviewed their own interest in this proceeding and the position which the  
22 Consortium will advance. Thus far, nothing has happened in the proceeding contrary to the  
23 Consortium's interests or the role the Consortium can play. By this Motion, the member Schools of  
24 the Consortium specifically commit to and endorse all steps taken so far by the Commission and  
25 accept all Orders of the Commission at this date.  
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The Consortium's delay should thus not bar or impede its role as Intervener. That delay was in part due to the complex nature of the proceeding, in part due to the care required in developing a regional approach, as well as the complexity of affiliating three Law Schools and articulating their shared interests. All of this has required thoughtful review of the member Law Schools' institutional mission in addressing regional problems and solutions in healthcare. It also required reviewing the development of the pending proceeding and the capabilities and interests of the parties thereto. Only after this deliberative process has the Coalition concluded that it has interests and resources which should be added to the conversion proceeding, to the benefit of the other interveners, the Commission and the public interest.

Some of the Consortium's interests and resources have already been noted above. It may be hoped they are sufficiently supportive of, yet complementary to, the interests of other interveners to warrant granting the Consortium's Motion to Intervene. To these, the Consortium would add two others.

First, it is clear that the present proceeding is only one of dozens around the country and the region, including Oregon and California. The Consortium faculty and research facilities have the capability of providing the Commission and the proceeding with sufficient resources to assure a full and informative context for decision making. The Applicant has retained some of the best legal services in the country, and has enormous resources for advocacy. The Consortium of Law Schools can help to counterbalance those resources, to assure a full, balanced development of the record.

Second, in other conversion proceedings, assets have simply been transferred to a general community health foundation, to make annual grants to applicants. This approach lacks direction, coherence and continuity. The Consortium of Law Schools will therefore advocate dedicating portions of Premera's assets to specific, continuing community needs. Interveners should develop

1 and present these. One such need is for regional healthlaw research, policy development and  
2 advocacy. This very proceeding evidences that need, as do hearings and legislation now pending  
3 before the legislatures of the Northwest. To that end, the Consortium has prepared a plan for a  
4 Northwest Center on Healthcare Law, Policy and Advocacy, involving the three member Law  
5 Schools in an extensive dedication of resources to the public interest in effective, affordable  
6 healthcare in the Pacific Northwest.  
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8 Development of the plan for a Northwest Center on Healthcare Law, Policy and Advocacy  
9 has required considerable time for review and consideration by the member law Schools. And this,  
10 along with other considerations, has resulted in the delay preceding the filing of this Motion.  
11 Because the approach of the plan for a Center is very different from that taken in conversion  
12 proceedings in other States, as well as for the other reasons developed in this Motion, it is important  
13 that this Commission grant the instant Motion to Intervene.  
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## 15 16 CONCLUSION

17 The pending conversion proceeding must be viewed in a broader perspective, across the  
18 region and over time. If allowed, Premera's assets will be lost, probably to other for profit carriers.  
19 Healthcare providers and consumers, as well as employers and third party providers, will be  
20 powerfully impacted. Later proceedings in other states, such as Oregon, will be implicated. The  
21 public interest hangs in an uncertain balance  
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23 All of this argues for the broadest possible inclusion of interested parties in this  
24 proceeding and should compel granting of this Consortium's Motion to Intervene. The Consortium  
25 therefor respectfully moves this Court to allow it to participate fully as a party in the pending  
26 Premera conversion proceeding. In that connection, the Consortium requests that the Commission  
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1 permit Professor Arthur B. LaFrance of Lewis & Clark Law School, Portland, Oregon, duly admitted  
2 to practice law in Oregon (but not Washington), to appear as its attorney in these proceedings.  
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4 RESPECTFULLY SUBMITTED,

5 THE CONSORTIUM OF NORTHWEST LAW SCHOOLS,

6 By  
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8  
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18 Date: March , 2003  
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